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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,865	09/13/2006	Chul-Hwan KIM	4820-021	1520
83219 HOSOON LEE	7590 01/31/201	EXAMINER		
	ST. SUITE 525	PACKARD, BENJAMIN J		
TIGARD, OR 9	11223		ART UNIT	PAPER NUMBER
			1612	
			MAIL DATE	DELIVERY MODE
			01/31/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
10/598,865	KIM ET AL.		
Examiner	Art Unit		
BENJAMIN PACKARD	1612		

1. □ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandomment of this application, applicant must timely file one of the following replies: (1) an amendment, affliative, or other vidence with places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.131; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: a) □ The period for reply expires 2 months from the mailing date of the final rejection. b) □ The period for reply expires on: (1) the mailing date of the final rejection. Examiner Note: It box is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS for The FINAL REJECTION. See MPEP 708.07(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final office adon, (2) as may reduce any example out the date for purposes of determining the period of extension and the corresponding amount of the file. The period reply originally set in the final office adon, (2) as may reduce any example part of the shortened statutory period for reply originally set in the final office adon, (2) as may reduce any example part of the shortened statutory period for reply originally set in the final office adon, (2) as may reduce any example part the mailing date of the final rejection, even if timely filed the period of the filed within two months of the date of filing the Notice of Appeal was been filed. any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS □ The Notice of Appeal days been filed, any reply must be filed within the time period set forth in 37 CFR 41.337(a). AMENDMENTS □ The pr		BENJAMIN PACKARD	1612					
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b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of than rejection. Examiner Note: If box 1 is checked, check either box (a) or (b). ONIX CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE PROVIDE AND	application, applicant must timely file one of the following r application in condition for allowance; (2) a Notice of Appe for Continued Examination (RCE) in compliance with 37 C	replies: (1) an amendment, affidavir al (with appeal fee) in compliance	t, or other evidence, w with 37 CFR 41.31; or	hich places the (3) a Request				
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2. ☐ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal has been filed, any reply must be filed within the filme period set forth in 37 CFR 41.37(a), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS 3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below); (b) ☐ They raise the issue of new matter (see NOTE below); (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: (See 37 CFR 1.116 and 41.33(a)). 4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. ☐ Applicant's reply has overcome the following rejection(s): 6. ☐ Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claim(s) 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) allowed: Claim(s) rejected: Claim(s) rejected: Claim(s) rejected:	Extensions of time may be obtained under 37 CFR 1.136(a). The date of have been filed is the date for purposes of determining the period of extrunder 37 CFR 1.17(a) is calculated from: (1) the expiration date of the siset forth in (b) above, if checked. Any reply received by the Office later may reduce any earned patent term adjustment. See 37 CFR 1.704(b).	on which the petition under 37 CFR 1.1 ension and the corresponding amount of hortened statutory period for reply origi	of the fee. The appropria nally set in the final Offic	ate extension fee e action; or (2) as				
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Examinor, Art offic 1012	/Frederick Krass/ Supervisory Patent Examiner, Art Unit 1612	/Benjamin Packard/ Examiner, Art Unit 1612						

Continuation of 11. does NOT place the application in condition for allowance because:

Claims 1, 2, and 4-14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ha et al (KR 110150271) in view of Protniuk et al (J of Pharm Sci, Vol 91, No 1, (2002) 111-116).

Applicants assert the amounts of each component calculated by Examiner are incorrect. Additionally, Applicants assert Ha does not teach or suggest the stabilization of epigallocatechin gallate in the water state. Applicants also assert that there is no motivation to use an intermediate composition to stabilize EGCG in water phase, thus the prior art structure is not capable of performing the intended use, contrary to the Final Office Action.

Examiner disagrees. While the table presented by Applicant does not appear to show in the submitted response, it is presumed the calculation is based on the end product. As noted by Examiner, the addition of the stabilizing antioxidant may be added at the beginning of the process and would therefore be present before the 600g of cyclohexane was added, where the acetic acid solution is an aqueous solution. Thus, at the intermediate step, the composition presented would read upon the instant claim limitations.

Note, while Applicants assert the prior art does not suggest forming an acid/base conjugate to stabilize the EGCG, such is not required by the instant claims. Instead, the claims simply require the ability to stabilize DGCG in the water phase. Where an antioxidant is added, stabilization would reasonably be expected.

Claim 3 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Ha et al (KR 110150271) in view of Protniuk et al (J of Pharm Sci, Vol 91, No 1, (2002) 111-116), the combination further in view of Morre et al (US 6,410,052). This rejection was not addressed and is therefore maintained.